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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,735	01/16/2004	Ronald T. Crocker	CE11573R	6383
22917	7590	12/26/2008	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			HOLLIDAY, JAIME MICHELE	
			ART UNIT	PAPER NUMBER
			2617	
			NOTIFICATION DATE	DELIVERY MODE
			12/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary

Application No. 10/758,735	Applicant(s) CROCKER ET AL.	
Examiner JAIME M. HOLLIDAY	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 September 2008.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1, 2, 5, 16, 18, 19 and 32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 2, 5, 16, 18, 19 and 32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Response to Arguments

Applicant's arguments filed September 10, 2008 have been fully considered but they are not persuasive.

Applicants basically argue that while the cited prior art teaches a presence server and presence update, the presence servers do not wait for an existing channel before sending the presence update, wherein, according to the present invention, the presence updates are "piggy backed" on an existing channel.

Examiner respectfully disagrees, because as taught in the Koch reference, the SSP alerts the subscriber using a standard call waiting tone, wherein the call waiting tone is used when the called party (MS) is busy, therefore an existing channel is used (paragraphs 66-68). Further, as suggested by newly cited reference, Rignell et al., when the telephone of a user is switched off, there are no links. When the telephone switches on, a link is established and its status is updated (paragraphs 43-44).

Therefore, in view of the preceding arguments, Examiner maintains the previous rejections.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. **Claims 1, 2, 5, 16, 18, 19 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Michael et al. (US 2004/017263)** in view of **Rignell et al. (US 2001/0024951 A1)**, and in further view of **Koch et al. (US 2004/0234061)**.

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Regarding **claims 1 and 32**, Michael discloses a method for facilitating wireless presence- based services [WPP] comprising: buddy list presence updates related to members of a buddy list, (interaction between presence server unit **1104** and the dynamic proxy **1114** including communication between the presence server and the dynamic proxy by the provision of presence update information [paragraphs 20-21], adapted to maintain a buddy list presence information reflecting the buddy list presence updates for the MS (dynamic presence proxy updates logged parties' presence [paragraph 21]).

Michael fails to explicitly disclose receiving by a wireless proxy from a presence server, a buddy list presence update for a mobile station.

In an analogous field of endeavor, Rignell et al. further disclose a wireless presence proxy comprising a network interface adapted to send and receive messaging using at least one communication protocol (digital message transmitted by the processing unit **31** and the mobile station updating unit **32** may be a short text message, such as an SMS message in GSM or an MMS message in UMTS [paragraph 45]), a processor, communicatively coupled to the network interface; [adapted to receive, from a presence server via the network interface], a buddy list presence update for a mobile station, waiting, by the WPP, [adapted to wait] until an indication is received of an assignment of a channel to the MS (user B switches on his/her mobile telephone **14a** and establishes a link **15a** to the mobile telecommunications network **30**, this will be detected by the processing unit **31**, which performs a first check in the status subscription database **36** [paragraphs 41, 43], wherein it is obvious that since the

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processing unit detects when user B establishes a link with the network, it will also detect when user A establishes a link), transmitting, by the WPP in response to the indication [adapted to transmit, to the MS in response to the indication], presence updates based on the buddy list presence information to update the MS (processing unit will form a digital message containing the new status information about subscriber B, which is forwarded to the mobile station updating unit **32**, which will transmit the digital message through the links **39a-c** to the mobile station **10** [paragraph 43]).

It would therefore have been obvious to one of ordinary skill in the art to update the status of a subscriber the establishes a link with a communication network in order to improve the update the availability status of subscribers using a presence service as taught by Rignell et al.

Michael, as modified by Rignell et al., fails to explicitly disclose wherein the presence information is sent via a TCH supporting a call.

In an analogous field of endeavor, Koch et al. disclose a traffic channel to the MS; adapted to transmit presence updates based on the buddy list presence information via the TCH to update the MS (buddy list is accessible by a service control point; using the called number, the service control point retrieves and reviews the buddy list. If the calling number matches the telephone number on the buddy list, the service control point instructs the service switching point to terminate the call using the buddy rule; a call from a buddy may be alerted to the subscriber when the subscriber is already engaged with another call in the Buddy Call Waiting Service; SCP **140** may consult the buddy list in database **142**, and if it is determined that the caller is a buddy,

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the SCP sends a buddy response to SSP **116**; buddy response may also comprise a ControllingLegTreatment field which may contain a standard call waiting tone indication; SSP alerts subscriber **110** with the standard calling waiting tone [abstract, paragraphs 63, 67-68]).

It would therefore have been obvious to one of ordinary skill in the art to allow a subscriber to associate rules with buddies, and applying the rules when notifying the subscriber of an incoming call as taught by Koch et al.

Regarding **claim 2**, the combination of Michael and Rignell et al., as modified by Koch et al., clearly shows and discloses the claimed invention **as applied to claim 1 above**, and in addition, Michael further discloses subscribing, by the WPP, to a presence service from the presence server as a proxy for the MS (dynamic presence proxy adapted to monitor and identify a user being present; dynamic presence proxy interacting with presence server [paragraphs 5, 20]).

Regarding **claim 5**, the combination of Michael and Rignell et al., as modified by Koch et al., clearly shows and discloses the claimed invention **as applied to claim 1 above**, and in addition, Koch et al. further disclose wherein the indication that the MS is assigned a TCH comprises an indication from the group consisting of an indication of a call origination by the MS, an indication of call activity involving the MS, and an indication of a TCH assignment to the MS (a call from a buddy may be alerted to the subscriber when the subscriber is already engaged with another call in the Buddy Call Waiting Service; [paragraphs 67-68]).

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Regarding **claims 16, 18 and 19**, the combination of Michael and Rignell et al., as modified by Koch et al., clearly shows and discloses the claimed invention **as applied to claim 1 above**, and in addition, Michael further discloses an indication of a call completion by the MS, an indication of a registration by the MS, and an indication of available-busy for the MS; an indication of deregistration by the MS, an indication of "power off" by the MS, an indication of a presence deregistration by the MS, and an indication of an application service deregistration by the MS, an indication of a call origination by the MS and an indication of call involvement by the MS (presence server receiving watcher list of registered, logged in users [paragraphs 21-25]).

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAIME M. HOLLIDAY whose telephone number is (571)272-8618. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jaime M Holliday/
Examiner, Art Unit 2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617